

**Effective 5/12/2015**

**17B-2a-404 Improvement district board of trustees.**

(1) As used in this section:

- (a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.
- (b) "County member" means a member of a board of trustees of a county district.
- (c) "Electric district" means an improvement district that was created for the purpose of providing electric service.
- (d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.
- (e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.
- (f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.
- (g) "Remaining area" means the area of a regular district that:
  - (i) is outside the boundaries of an included municipality; and
  - (ii) includes the area of an included municipality whose legislative body elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.
- (h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

- (a) elect, at the time of the creation of the district, to be the board of trustees of the district; and
- (b) adopt at any time a resolution providing for:
  - (i) the election of board of trustees members, as provided in Section 17B-1-306; or
  - (ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3)

- (a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:
  - (i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1)(a);
  - (ii) adopt at any time a resolution providing for:
    - (A) the election of board of trustees members, as provided in Section 17B-1-306; or
    - (B) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304; and
  - (iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.
- (b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:
  - (i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302(1)(b)(i)(B);
  - (ii) the board of trustees are appointed by the legislative body of the county; and
  - (iii) there are at least two appointed board members who meet the requirements of Subsection 17B-1-302(1), except that a member of the legislative body of the county need not satisfy the requirements of Subsection 17B-1-302(1).

- (4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(a)(ii) (B) at any time after the county district is governed by an elected board of trustees unless:
  - (a) the elected board has ceased to function;
  - (b) the terms of all of the elected board members have expired without the board having called an election; or
  - (c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.
- (5)
  - (a)
    - (i) Except as provided in Subsection (5)(a)(ii), the legislative body of each included municipality shall each appoint one member to the board of trustees of a regular district.
    - (ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (5)(a)(i).
  - (b) Except as provided in Subsection (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.
- (6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:
  - (a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;
  - (b) the district holds an election to approve the district's issuance of bonds;
  - (c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees; or
  - (d)
    - (i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and
    - (ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.
- (7) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:
  - (a) the number of included municipalities within the district, if:
    - (i) the number is an odd number; and
    - (ii) the district does not include a remaining area;
  - (b) the number of included municipalities plus one, if the number of included municipalities within the district is even; and
  - (c) the number of included municipalities plus two, if:
    - (i) the number of included municipalities is odd; and
    - (ii) the district includes a remaining area.
- (8)
  - (a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.
  - (b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:
    - (i) the population of the remaining area is less than 5% of the total district population; or
    - (ii)

- (A) the population of the remaining area is less than 50% of the total district population; and
- (B) the majority of the members of the board of trustees are remaining area members.
- (c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.
- (9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (6)(b):
  - (a) a person may file a declaration of candidacy if:
    - (i) the person resides within:
      - (A) the remaining area, for a regular district; or
      - (B) the county district, for a county district; and
    - (ii) otherwise qualifies as a candidate;
  - (b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and
  - (c) the election shall otherwise be governed by Title 20A, Election Code.
- (10)
  - (a)
    - (i) This Subsection (10) applies to the board of trustees members of an electric district.
    - (ii) Subsections (2) through (9) do not apply to an electric district.
  - (b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.
  - (c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.
  - (d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.
  - (e) The board of trustees of an electric district may be elected from geographic divisions within the district.
  - (f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Amended by Chapter 258, 2015 General Session